

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

United Pumping Service, Inc.
14016 East Valley Boulevard
City of Industry, California 91746
ID No. CAD 072953771

Respondent.

Docket HWCA 2002-0080

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and United Pumping Service, Inc. (Respondent) enter into this Consent Order and agree as follows:

1. Respondent transports hazardous waste at the following site: 14016 East Valley Boulevard, City of Industry, California 91746 (Site).

2. The Department inspected the Site on January 24, 2002.

3. The Department alleges the following violation:

3.1. Respondent violated California Code of Regulations, title 22, section 66263.20, subdivision (f), in that on or about February 5, 2002, Respondent failed to submit to the Department, within 15 days, a copy of manifests completed by the generator, transporter and hazardous waste facility for each load of hazardous waste transported out of State

3.2. Respondent violated California Code of Regulations, title 22, section 66263.22, subdivision (a), in that on or about February 5, 2002, respondent failed to maintain a signed copy of manifests for three years.

3.3. Respondent violated California Code of Regulations, title 22, section 66263.20, subdivision (g)(1), in that on or about February 5, 2002, Respondent failed to obtain

1 the date and/or signature of either another transporter or a designated facility on the manifest
2 when it delivered hazardous wastes to that transporter or designated facility.

3
4 3.4. Respondent violated Health and Safety Code section 25189.2, subdivision
5 (a), in that on or about February 5, 2002, Respondent had signed manifests without receiving
6 the manifested wastes from the generator.

7 3.5. Respondent violated California Code of Regulations, section 66263.21,
8 subdivision (a), in that on or about February 5, 2002, Respondent failed to deliver the entire
9 quantity of hazardous waste accepted from a generator to the designated facility.

10 4. A dispute exists regarding the alleged violations.

11 5. The parties wish to avoid the expense of litigation and to ensure prompt
12 compliance.

13 6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

14 7. Respondent waives any right to a hearing in this matter.

15 8. This Consent Order shall constitute full settlement of the violations alleged
16 above, but does not limit the Department from taking appropriate enforcement action concerning
17 other violations.

18 9. Respondent neither admits nor denies the violations described above.

19 SCHEDULE FOR COMPLIANCE

20 10. Respondent shall comply with the following:

21 10.1. Respondent has certified that the above described alleged violations have
22 been corrected to the satisfaction of the Department.

23 10.2. Submittals: All submittals from Respondent pursuant to this Consent Order
24 shall be sent simultaneously to:

25 Mukul Agarwal
26 Supervising Hazardous Substance Scientist
27 Statewide Compliance Division
28 Department of Toxic Substance Control
1011 North Grandview Avenue
Glendale, California, 91201

1 10.3. Communications: All approvals and decisions of the Department made
2 regarding such submittals and notifications shall be communicated to Respondent in writing by
3 a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal
4 advice, guidance, suggestions, or comments by the Department regarding reports, plans,
5 specifications, schedules, or any other writings by Respondent shall be construed to relieve
6 Respondent of its obligation to obtain such formal approvals as may be required.

7 10.4. Department Review and Approval: If the Department determines that any
8 report, plan, schedule, or other document submitted for approval pursuant to this Consent Order
9 fails to comply with the Order or fails to protect public health or safety or the environment, the
10 Department may return the document to Respondent with recommended changes and a date by
11 which Respondent must submit to the Department a revised document incorporating the
12 recommended changes.

13 10.5. Compliance with Applicable Laws: Respondent shall carry out this Order in
14 compliance with all local, State, and federal requirements, including but not limited to
15 requirements to obtain permits and to assure worker safety.

16 10.6. Endangerment during Implementation: In the event that the Department
17 determines that any circumstances or activity (whether or not pursued in compliance with this
18 Consent Order) are creating an imminent or substantial endangerment to the health or welfare
19 of people on the site or in the surrounding area or to the environment, the Department may
20 order Respondent to stop further implementation for such period of time as needed to abate the
21 endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order
22 under this section shall be extended for the term of such Stop Work Order.

23 10.7. Liability: Nothing in this Consent Order shall constitute or be construed as a
24 satisfaction or release from liability for any conditions or claims arising as a result of past,
25 current, or future operations of Respondent, except as provided in this Consent Order.
26 Notwithstanding compliance with the terms of this Consent Order, Respondent may be required
27 to take further actions as are necessary to protect public health or welfare or the environment.
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10.8. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 12.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

10.9. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department

10.10. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

10.11. Extension Approvals: If the Department determines that good cause exists for an extension, the request and specify in writing a new compliance schedule. it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

11.1. Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department a total penalty of \$30,000. Respondent's check shall be made payable to Department of Toxic Substance Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P.O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

To: Mukul Agarwal
Supervising Hazardous Substance Scientist
Statewide Compliance Division
Department of Toxic Substance Control
1011 North Grandview Avenue
Glendale, California 91201

and

To: Debra Schwartz
Office of Legal Counsel
Department of Toxic Substance Control
1011 North Grandview Avenue
Glendale, California 91201

11.2. Respondent hereby agrees to send an employee to the specified California Compliance School (Modules I – IV). Attendance must be completed and the Respondent must submit a Certificate of Satisfactory Completion issued by the California Compliance School to the Department within 185 days of the effective date of this Consent Order. In recognition of this educational investment, the penalty imposed by this Consent Order has been reduced by \$5,000 provided that the employee satisfactorily completes the specified modules and the Department receives the Certificate of Satisfactory Completion within 185 days of the effective date of this Consent Order.

If the Respondent fails to submit the certificate as required, the penalty of \$5,000 is due and payable within 30 days after the 185-day period expires. The 185-day period may be extended by a Department Branch Chief upon a written request demonstrating good cause from the Respondent.

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and 3ther applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and

1 subsidiary and parent corporations, and upon the Department and any successor agency that
2 may have responsibility for and jurisdiction over the subject matter of this Consent Order.

3 12.4. Effective Date: The effective date of this Consent Order is the date it is
4 signed by the Department.

5 12.5. Integration: This agreement constitutes the entire agreement between the
6 parties and may not be amended, supplemented, or modified, except as provided in this
7 agreement.

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10 Dated: October 27, 2003

Original signed by Eduardo Perry
United Pumping Service, Inc.

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12 Dated: October 31, 2003

Original signed by Florence Gharibian
Florence Gharibian, Branch Chief
Southern California Branch
Statewide Compliance Division
Department of Toxic Substances Control